

DEPOSITION OF DAVE HOFFERT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

WILLIAM JEROME RUTH, individually,
and as Wrongful Death Representative
of the ESTATE OF CYNTHIA SHOOK RUTH,

Plaintiff,

V.

BEARTOOTH ELECTRIC COOPERATIVE, INC.,
a Montana Corporation, and ASPLUNDH
TREE EXPERT, LLC, a Limited Liability
Company formed in Pennsylvania,

Defendants.

DEPOSITION OF DAVE HOFFERT
March 16, 2023
11:08 a.m.

PURSUANT TO THE UNITED STATES RULES OF FEDERAL
PROCEDURE, this Deposition was:

TAKEN BY: Kenneth E. Barker, Esq.
Attorney for Plaintiff

REPORTED BY: Barbara Jean Morgenweck, RPR, CCR
NCRA, RPR
New Mexico CCR #526

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1 Well, then when we lost a board member that
 2 moved away, it was easier to replace the chief than
 3 a qualified board member so I moved up to the board.
 4 I have been on it ever since.
 5 Q. How many years total?
 6 A. Since like '89, '90, somewhere in there.
 7 Q. 33 years?
 8 A. Pretty close.
 9 Q. Okay.
 10 (Sneezing in the room.)
 11 A. I hope I didn't bring something in here.
 12 MR. BONA: My allergies have been getting me
 13 all this week.
 14 BY MR. BARKER:
 15 Q. Dave, I would like to move into the day of
 16 November 15th of 2021. That is the day that the
 17 Clark fire began; do you have that day in mind?
 18 A. Oh, yeah.
 19 Q. You were at, well, before I go there, do you
 20 remember the day at all? Do you remember what your
 21 activities were that day?
 22 A. Not really. It has been overshadowed by the
 23 evening so it was up until that point, it was
 24 routine and the winds I remember came up early in
 25 the afternoon and were progressively getting worse

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1 so it is just natural to be edgy during that time.
 2 Q. Do you receive -- did you receive a fire
 3 weather alert or a weather alert of high wind
 4 warnings?
 5 A. I don't remember that we did. It is not
 6 something we concentrate on a lot. Clark is so
 7 unique that Riverton tries to give us a heads up.
 8 More often than not because of my involvement with
 9 the county, I work with the weather service in
 10 Riverton directly on a number of situations.
 11 For instance, I manage the landfills and
 12 there's all kinds of recording necessary to show
 13 wind events that cause problems with the landfill so
 14 we interchanged a lot, and I would get calls from
 15 them to me personally at home saying, this is what
 16 our equipment is saying. What's it really doing.
 17 They used to get hands on, on the ground.
 18 They didn't know a lot of people in Clark. There
 19 didn't used to be a lot of people in Clark, but I
 20 was a contact that they would call and say, we're
 21 seeing this. We want to verify that, and then about
 22 4 or 5 hours later they would call again say, we
 23 would like to verify this is what is really
 24 happening so they could tell -- because their radar
 25 doesn't really come around the mountain to get to

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1 the Clark Basin, and the radar in Montana does some
 2 but it is not real accurate and so that is the
 3 involvement I have had, but that day I don't
 4 remember -- we have a weather station. I watch that
 5 online. There is a weather station at the fire
 6 hall, and I watch that to see what is going on, and
 7 you're watching wind speed and humidity, and it was
 8 for us we were all concerned because it was
 9 unbelievably dry time, not typical for that time of
 10 year, November. It was really dry and then that
 11 wind. We knew we were at-risk. We were hoping we
 12 could get through.
 13 Q. Do you recall what the weather conditions
 14 were as you responded to the dispatch and went to
 15 the fire hall?
 16 A. The winds were in excess of
 17 80 miles-an-hour. I don't try to go beyond -- if it
 18 gets to 80 miles-an-hour, you can't stand up.
 19 You're leaning into it, crawling on the ground or
 20 hiding behind something to accomplish something. It
 21 was above 80. When I went out of the house, I had
 22 to protect myself and work to get to the car, and be
 23 careful to get the door, and it is just something
 24 you learn when you deal with it, and it was
 25 excessive.

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1 We had reports over a hundred routinely. I
 2 can't tell you what it really was, but it was
 3 definitely excess of 80 miles-an-hour.
 4 Q. As you're going from your home to the fire
 5 hall which is from east to west generally --
 6 A. Yes.
 7 Q. -- could you see the glow from the fire?
 8 A. Minute I walked out the door. The minute --
 9 my house faces that direction. I have experienced
 10 it. That is the third time, and it is absolute
 11 sinking feeling. It is just you look towards the
 12 mountain and there is a cavity with an orange glow,
 13 and it is just it -- a typical fire you see from a
 14 distance is a small area and a column you're looking
 15 to see what it is doing with some kind of column or
 16 of smoke or a column of flame. When you see just
 17 the orange glow, yeah.
 18 Q. What does that tell you?
 19 A. That its acreage, not a spot. There is
 20 acreage involved, and yeah, it is cooking. That is
 21 the term we use, "it is really cooking."
 22 Q. You get to the fire hall and other members
 23 are responding as well?
 24 A. Yes.
 25 Q. Do you have an assigned unit?

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1 days go back to the Hutton property for any reason?
 2 A. No. I ended up -- there was -- well, I was
 3 on the Hutton property but not the location we're
 4 talking about. Downstream, the one in between which
 5 would be -- it is referred to here standard --
 6 Q. You're referring to Exhibit No. 1 and this
 7 is the label on here is the centermost steward
 8 cottage; is that right?
 9 A. Yes, and you can see there that northeast of
 10 it there is a bunch of corrals and things there.
 11 There was a pile they pushed up of straw and manure
 12 and cleanings from the corrals.
 13 It kept fluttering up, and we needed
 14 equipment so I was dispatched to that twice to put a
 15 load of water on it, try to contain it, deal with
 16 it, and then we were able on Friday, I think it was,
 17 to get a skid steer to come up. Took one of our
 18 fireman that is an operator, two others, went up,
 19 and we turned it over, soaked it. Turned it over
 20 and soaked it. It was my third trip to that
 21 location. I put that out.
 22 That is as far up as I went -- I had no
 23 reason -- there was no fire left above there. The
 24 fire we were paying attention to was stumps and
 25 piles in the creek bottom that would flare up

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1 because they would dry up, flare up again, and when
 2 a stump on the creek bottom would burn, they
 3 literally would burn down underground and the roots
 4 would keep going, and you would soak it. Then a day
 5 later it would dry out and come up again. It would
 6 start smoking. The neighbors would call. That is
 7 what we were patrolling and dealing with that. That
 8 was until some time Friday we were done.
 9 Q. Okay. Did you participate --
 10 MS. COATES: Did you want the camera back on
 11 the witness.
 12 MR. BARKER: Thank you, Holly.
 13 THE WITNESS: I like it the other way.
 14 BY MR. BARKER:
 15 Q. Did you participate in any way in the
 16 determination of the origin and cause?
 17 A. No, I did not.
 18 Q. Okay. Just a moment. I think we are done.
 19 Thank you. These guys have some questions.
 20 MR. BAILEY: Just very few. Thank you for
 21 coming today.
 22 EXAMINATION
 23 BY MR. BAILEY:
 24 Q. Was there any kind of a system in place in
 25 Clark to notify people that they needed to evacuate

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1 in case of a wildfire that you're aware of?
 2 A. They call it "code red." Okay. We hadn't
 3 used it a lot, and you need to understand the Clark
 4 community is very independent, redneck. They don't
 5 like government.
 6 Q. I would like it there.
 7 A. I am just telling you, even when you offer
 8 them something like that, they think you're spying
 9 on them. They don't all join. It is all voluntary,
 10 and that was used by the sheriff's department that
 11 night to notify. I think we figured right about
 12 half the residents were participating and they were
 13 notified.
 14 Whenever we have done that, the strange part
 15 is we get chewed out by people that we asked to
 16 leave that don't think they should have and we get
 17 chewed out by people that we didn't ask and it is --
 18 we never win on that one.
 19 Q. Did you personally participate in notifying
 20 anyone in the Clark area to evacuate their home?
 21 A. No. When I was on Wild Willy, the deputies
 22 had most of them out. We went looking and affirming
 23 people had left. Deputies would go in and ask them
 24 to leave, and then we were following up to make sure
 25 they really were gone, kind of thing. That is all I

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1 did.
 2 Q. Did you have any conversations with Jerry
 3 Ruth that night or early on the 16th about Cindy
 4 needing to evacuate her residence?
 5 A. I tried but I don't believe -- I believe the
 6 tower had gone down by the time I was trying. I
 7 really felt like I could hear Nathan pleading with
 8 Jerry, call Cindy tell her now. Call Cindy tell her
 9 now, and my thought was, Jerry, if you're sitting up
 10 there because you think I want you there, I want you
 11 to know it is okay with me take the truck and go
 12 down, but I was never able to contact him. It never
 13 got through to him.
 14 By the time I got to the Cothorn property
 15 where I met Nate, I understand now Jerry had already
 16 hijacked one of the Cody officer trucks and they
 17 were going down. They were already gone from where
 18 I was.
 19 Q. You mentioned conversations you had with
 20 Jerry about the ambulance bringing it, not bringing
 21 it, so forth?
 22 A. Right.
 23 Q. Then you talked with him when you reached
 24 the mailbox. Did you have any other conversations
 25 with him that night that you can recall?

14 (Pages 47 to 50)